

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1250
93RD GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, April 19, 2006, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 1250, adopted April 24, 2006.

Taken up for Perfection April 24, 2006. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

5422S.05P

AN ACT

To repeal sections 172.360, 174.130, 178.635, 178.780, and 285.025, RSMo, and to enact in lieu thereof twelve new sections relating to illegal aliens.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 172.360, 174.130, 178.635, 178.780, and 285.025, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 34.077, 43.032, 172.360, 174.130, 175.025, 178.635, 178.780, 178.785, 208.009, 285.025, 544.677, and 590.700, to read as follows:

34.077. 1. It is hereby declared to be the policy of the state of Missouri that any employer who employs any undocumented worker shall be prohibited from entering into a contract as, or performing work as, a contractor or subcontractor on a project governed by a public works contract.

2. No employer who employs an undocumented worker, as defined by the federal Immigration Reform and Control Act of 1986, shall be eligible to enter into a public works contract, as defined in section 34.058, nor shall any employer who employs any undocumented worker be eligible to contract as a subcontractor on a project governed by a public works contract. No employer who employs an undocumented worker shall be allowed to perform work as a contractor

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

13 or subcontractor on a project governed by a public works contract.

14 3. Any public entity inviting bids for or letting a public works
15 contract shall insert in such entity's criteria for eligibility for the
16 award of such contract a signed, notarized statement by the applicant
17 affirming that such applicant employs no undocumented workers. Any
18 public entity entering into a public works contract shall cause to be
19 inserted into such contract:

20 (1) A provision that prohibits the contractor from employing any
21 undocumented worker at any time during the period covered by such
22 contract;

23 (2) A provision that prohibits the contractor, or any level of
24 subcontractor, from contracting with any subcontractor who employs
25 any undocumented worker at any time during the period covered by
26 such contract;

27 (3) A provision to the effect that compliance with the provisions
28 of this section shall be material to the contract and any violation of any
29 provision of this section shall constitute a material breach of the
30 contract and shall allow the public entity to unilaterally and
31 immediately terminate the contract with the contractor; and

32 (4) A provision that requires the contractor to include such
33 provisions in their bond contract that will guarantee the faithful
34 performance of and compliance with the requirements of this section,
35 and that will hold the public entity harmless for any losses incurred as
36 a direct or indirect result of the contractor's violation of this section,
37 and for any losses incurred as a direct or indirect result of the public
38 entity's termination of the contract pursuant to this section.

39 4. Any entity that is found to have knowingly employed an
40 undocumented worker at any time during the period said entity was
41 under contract on a project governed by a public works contract, in
42 violation of this section, shall be ineligible to work on any project
43 governed by a public works contract for three years following such
44 determination. An entity may appeal such determination with the
45 administrative hearing commission pursuant to the provisions of
46 chapter 621, RSMo.

47 5. In addition to other provisions of law which may allow
48 interested parties or others to take action to enforce the provisions of
49 this section, the attorney general is authorized to take all necessary

50 action to enforce the provisions of this section, including, but not
51 limited to, obtaining an order for injunction from a court of competent
52 jurisdiction:

53 (1) To stop a contractor from bidding on, or entering into, or
54 performing work pursuant to, any contract or subcontract for
55 construction of public works; and

56 (2) To stop a public entity from paying a contractor who has
57 violated any provision of this section.

43.032. Subject to appropriation, the superintendent of the
2 Missouri state highway patrol shall designate that some or all members
3 of the highway patrol be trained in accordance with a memorandum of
4 understanding between the state of Missouri and the United States
5 Department of Homeland Security concerning the enforcement of
6 federal immigration laws on federal highways and interstates in the
7 state of Missouri, in accordance with 8 U.S.C. Section 1357(g). The
8 superintendent shall have the authority to negotiate the terms of such
9 memorandum. The memorandum shall be signed by the superintendent
10 of the highway patrol, the governor, and the director of the department
11 of public safety.

172.360. 1. All youths, resident of the state of Missouri, shall be admitted
2 to all the privileges and advantages of the various classes of all the departments
3 of the University of the State of Missouri[;], provided[,] that each applicant for
4 admission [therein] shall possess such scholastic attainments and mental and
5 moral qualifications as shall be prescribed in rules adopted and established by
6 the board of curators[; and provided further, that]. **However, aliens**
7 **unlawfully present in the United States shall not be eligible for**
8 **admission to the university.** The board of curators may charge and collect
9 reasonable tuition and other fees necessary for the maintenance and operation of
10 all departments of the university, as they may deem necessary.

11 2. **Prior to approval of any appropriations by the general**
12 **assembly for the University of Missouri, the registrar for each campus**
13 **of the University of Missouri shall certify annually to the education**
14 **appropriations committee of the house of representatives and the**
15 **appropriations committee of the senate that its campus has not**
16 **knowingly admitted any aliens unlawfully present in the United States**
17 **in the preceding year.**

174.130. 1. Each board may make such rules and regulations for the

2 admission of students as may be deemed proper. **However, aliens unlawfully**
3 **present in the United States shall not be eligible for admission to the**
4 **university or college.**

5 **2. Prior to approval of any appropriations by the general**
6 **assembly for the university or college, the registrar for each university**
7 **or college shall certify annually to the education appropriations**
8 **committee of the house of representatives and the appropriations**
9 **committee of the senate that its university or college has not knowingly**
10 **admitted any aliens unlawfully present in the United States in the**
11 **preceding year.**

175.025. 1. The board of curators of Lincoln University may
2 make such rules and regulations for the admission of students as it may
3 deem proper. However, aliens unlawfully present in the United States
4 shall not be eligible for admission to the university.

5 **2. Prior to approval of any appropriations by the general**
6 **assembly for the university, the registrar shall certify annually to the**
7 **education appropriations committee of the house of representatives**
8 **and the appropriations committee of the senate that the university has**
9 **not knowingly admitted any aliens unlawfully present in the United**
10 **States in the preceding year.**

178.635. 1. The board of regents of Linn State Technical College shall
2 organize in the manner provided by law for the board of curators of the
3 University of Missouri. The powers, duties, authority, responsibilities, privileges,
4 immunities, liabilities and compensation of the board of Linn State Technical
5 College in regard to Linn State Technical College shall be the same as those
6 prescribed by statute for the board of curators of the University of Missouri in
7 regard to the University of Missouri, except that Linn State Technical College
8 shall be operated only as a state technical college. Nothing in this section shall
9 be construed to authorize Linn State Technical College to become a community
10 college or a university offering four-year or graduate degrees.

11 **2. All lawful bonded indebtedness incurred by the issuance of revenue**
12 **bonds, as defined in section 176.010, RSMo, by Linn Technical College, shall be**
13 **deemed to be an indebtedness of the board of regents of Linn State Technical**
14 **College after the date upon which the conditions of section 178.631 are met. Such**
15 **indebtedness shall be retired through tuition revenues.**

16 **3. The board of regents may make such rules and regulations for**

17 the admission of students as it may deem proper. However, aliens
18 unlawfully present in the United States shall not be eligible for
19 admission to Linn State Technical College.

20 4. Prior to approval of any appropriations by the general
21 assembly for Linn State Technical College, the registrar shall certify
22 annually to the education appropriations committee of the house of
23 representatives and the appropriations committee of the senate that
24 the college has not knowingly admitted any aliens unlawfully present
25 in the United States in the preceding year.

178.780. 1. Tax supported junior colleges formed prior to October 13,
2 1961, and those formed under the provisions of sections 178.770 to 178.890 shall
3 be under the supervision of the coordinating board for higher education.

4 2. The coordinating board for higher education shall:

5 (1) Establish the role of the two-year college in the state;

6 (2) Set up a survey form to be used for local surveys of need and potential
7 for two-year colleges; provide supervision in the conducting of surveys; require
8 that the results of the studies be used in reviewing applications for approval; and
9 establish and use the survey results to set up priorities;

10 (3) Require that the initiative to establish two-year colleges come from the
11 area to be served;

12 (4) Administer the state financial support program;

13 (5) Supervise the junior college districts formed under the provisions of
14 sections 178.770 to 178.890 and the junior colleges now in existence and formed
15 prior to October 13, 1961;

16 (6) Formulate and put into effect uniform policies as to budgeting, record
17 keeping, and student accounting;

18 (7) Establish uniform minimum entrance requirements and uniform
19 curricular offerings for all junior colleges **and ensure that aliens unlawfully**
20 **present in the United States are not eligible for admission to any junior**
21 **college;**

22 (8) Make a continuing study of junior college education in the state; and

23 (9) Be responsible for the accreditation of each junior college under its
24 supervision. Accreditation shall be conducted annually or as often as deemed
25 advisable and made in a manner consistent with rules and regulations
26 established and applied uniformly to all junior colleges in the state. Standards
27 for accreditation of junior colleges shall be formulated with due consideration

28 given to curriculum offerings and entrance requirements of the University of
29 Missouri.

178.785. Prior to approval of any appropriations by the general
2 assembly for a junior college, the registrar for the college shall certify
3 annually to the education appropriations committee of the house of
4 representatives and the appropriations committee of the senate that its
5 junior college has not knowingly admitted any aliens unlawfully
6 present in the United States in the preceding year.

208.009. 1. No person who is not a citizen or a permanent
2 resident of the United States or who does not possess lawful
3 immigration status shall receive state or local public assistance under
4 this chapter, except for state or local public assistance that is
5 mandated by federal law under 8 U.S.C. Section 1621.

6 2. In addition to providing proof of other eligibility
7 requirements, at the time of application for any state or local public
8 benefit, an applicant who is nineteen years of age or older shall provide
9 affirmative proof that the applicant is a citizen or a permanent resident
10 of the United States or is lawfully present in the United States. Such
11 affirmative proof shall consist of documentary evidence recognized by
12 the department of revenue when processing an application for a
13 driver's license. A state or local government agency administering
14 public assistance benefits shall not accept an identification card issued
15 by a state or local government agency, including a driver's license, to
16 establish identity or determine eligibility for public assistance benefits
17 unless the state or local government agency that issued the card has
18 verified the eligibility of the applicant.

19 3. An applicant who cannot provide the proof required under
20 this section at the time of application may alternatively sign an
21 affidavit under oath, attesting to either United States citizenship or to
22 classification by the United States as an alien lawfully admitted for
23 permanent residence, in order to receive temporary benefits or a
24 temporary identification document as provided in this section. The
25 affidavit shall be on or consistent with forms prepared by the state or
26 local government agency administering the public assistance benefits
27 program and shall include the applicant's Social Security number and
28 an explanation of the penalties under state law for obtaining public
29 assistance benefits fraudulently.

30 4. An applicant who has provided the sworn affidavit required
31 under subsection 4 of this section is eligible to receive temporary
32 public assistance program benefits as follows:

33 (1) For ninety days or until such time that it is determined the
34 applicant is not lawfully present in the United States, whichever is
35 earlier; or

36 (2) Indefinitely if the applicant provides a copy of a completed
37 application for a birth certificate that is pending in Missouri or some
38 other state. An extension granted under this subsection shall terminate
39 upon the applicant's receipt of a birth certificate or a determination
40 that a birth certificate does not exist because the applicant is not a
41 United States citizen.

42 5. All state agencies administering public assistance programs
43 in this state shall cooperate with local governments and the United
44 States Department of Homeland Security to develop a system to
45 facilitate verification of an individual's lawful presence in the United
46 States in furtherance of this section. The system developed shall
47 include verification under the Systematic Alien Verification
48 Entitlements Program operated by the United States Department of
49 Homeland Security, in accordance with 8 U.S.C. Section 1357(g).

285.025. 1. The state of Missouri hereby proclaims that no employer who
2 employs illegal aliens shall be eligible for any state-administered or subsidized
3 tax credit, tax abatement, or loan from this state, **or a loan from any**
4 **governing body in this state.** The director of each agency administering or
5 subsidizing a tax credit, tax abatement or loan pursuant to chapter 32, 100, 135,
6 253, **349**, 447, or 620, RSMo, shall place in such agency's criteria for eligibility
7 for such credit, abatement, exemption or loan a signed statement of affirmation
8 by the applicant that such applicant employs no illegal aliens. Any individual,
9 individual proprietorship, corporation, partnership, firm or association that is
10 found by the director of the agency administering the program to have negligently
11 employed an illegal alien in this state shall be ineligible for any
12 state-administered or subsidized tax credit, tax abatement, or loan, **or a loan**
13 **from any governing body in this state,** pursuant to chapter 32, 100, 135, 253,
14 **349**, 447, or 620, RSMo, for five years following such determination; provided,
15 however, that the director of the agency administering such credit, abatement,
16 exemption or loan may, in the director's discretion, elect not to apply such

17 administrative action for a first-time occurrence. Any person, corporation,
18 partnership or other legal entity that is found to be ineligible for a
19 state-administered or subsidized tax credit, tax abatement, or **any** loan pursuant
20 to this subsection may make an appeal with the administrative hearing
21 commission pursuant to the provisions of chapter 621, RSMo. "Negligent", for the
22 purposes of this subsection means that a person has failed to take the steps
23 necessary to comply with the requirements of 8 U.S.C. 1324a with respect to the
24 examination of an appropriate document or documents to verify whether the
25 individual is an unauthorized alien.

26 2. Beginning August 28, 1999, any individual, individual proprietorship,
27 corporation, partnership, firm or association that knowingly accepts any
28 [state-administered or subsidized] tax credit, tax abatement or loan in violation
29 of subsection 1 of this section shall upon conviction be guilty of a class A
30 misdemeanor, and such action may be brought by the attorney general in Cole
31 County circuit court.

544.677. 1. When any person is charged with a felony and
2 **confined for any period of time in a county jail, municipal jail, or**
3 **regional jail, a reasonable effort shall be made by the jailer to**
4 **determine whether or not such person is a citizen of the United States.**
5 **If the jailer reasonably believes that such person is not a citizen of the**
6 **United States, he or she shall make a reasonable effort to verify that**
7 **such person has been lawfully admitted to the United States, and if**
8 **lawfully admitted, that such lawful status has not expired. If**
9 **verification of the person's lawful status cannot be made from**
10 **documents in his or her possession, verification shall be made within**
11 **forty-eight hours through a query to the United States Department of**
12 **Homeland Security. If it is determined that the person being confined**
13 **is not lawfully within the United States, the jailer or an employee of the**
14 **jailer shall notify the United States Department of Homeland Security.**

15 2. **Nothing in this section shall be construed to deny a person**
16 **bond or from being released from confinement when such person is**
17 **otherwise eligible for release.**

590.700. Notwithstanding any other provision of law to the
2 **contrary and to the extent permitted by federal law, peace officers are**
3 **authorized to investigate, apprehend, or detain any individual who is**
4 **not a citizen or permanent resident of the United States or does not**

5 possess lawful immigration status and who is located in this
6 state. Peace officers are authorized to transfer such individuals to the
7 custody of the Bureau of Customs and Immigration Enforcement of the
8 United States Department of Homeland Security and to transport such
9 individuals across state lines to a detention center.

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Bill

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